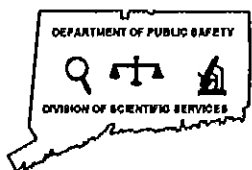


## STATE OF CONNECTICUT



### DEPARTMENT OF PUBLIC SAFETY OFFICE OF THE COMMISSIONER

John A. Danaher III  
Commissioner

Lieutenant Edwin S. Henlon  
Chief of Staff

March 17, 2010

Rep. Michael P. Lawlor, Co-Chairman  
Sen. Andrew J. McDonald, Co-Chairman  
Judiciary Committee  
Legislative Office Building  
Hartford, CT 06106

#### **SB 458 AN ACT CONCERNING RESTORATION OF ELIGIBILITY TO POSSESS FIREARMS UNDER FEDERAL LAW**

***The Department of Public Safety supports this bill.***

The National Instant Criminal Background Check (hereinafter NICS) is a national computerized database that allows authorized users to check available records for an immediate response on persons disqualified from possessing firearms. In 2005, there were not any states (Connecticut included) that had procedures for entering the names of those disqualified from owning a gun because of mental disabilities into the NICS index. This created a significant public safety problem in that persons who could not purchase a gun in their own state because of mental disabilities could go to a neighboring state and purchase firearms because the NICS index would not show any disqualifiers. The federal government required all states to adopt procedures for getting the names of these individuals into the NICS index.

Pursuant to this requirement, the General Assembly passed, and Governor Rell signed into law, Public Act 05-283, AA Revising Statutes Relative to Firearms, which required the Public Safety (DPS), Mental Health and Addiction Services, and Judicial departments to enter into a memorandum of understanding with the Federal Bureau of Investigation to fully implement the National Instant Criminal Background Check System (NICS) in the state. The act required DPS to report to the NICS Index Denied Persons Files, the name, date of birth, and physical description of anyone barred from possessing guns under federal law, and to do so in accordance with state and federal confidentiality laws. The required memorandum of understanding was entered into and the names of the applicable individuals are now entered.

The federal government is now requiring that all states adopt a procedure for "relief from disabilities" by which a person whose name has been entered into the NICS index because of mental disabilities can seek relief. Federal Public Law 110-180, Section 105 enacted January 8, 2008, NICS Improvement Act (NIAA) requires a program for persons to petition for relief of firearms prohibitions for those prohibited from possessing or purchasing firearms due to various mental health adjudications as articulated in Title 18 U.S.C 922 d(4) and g(4).

The NICS Improvement Amendments Act requires that a program for relief of firearms prohibitions due to mental health adjudications be enacted by each state that submits data regarding mental health adjudications to the National Instant Background Check System (NICS) Index as defined by Title 18 U.S.C 922 d and g. The NIAA provides that for states that fail to create such a program, grant money under the Omnibus Crime Control Act will be decreased on a yearly basis by certain percentages until such a program is implemented.

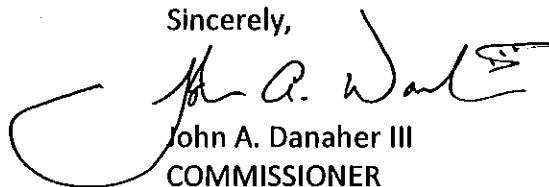
There are due process and record requirements in the Act that are specific and will require Connecticut to certify to the U.S. Attorney General and the U.S. Department of Justice that it has met the minimum requirements for compliance.

Passage of this bill will meet all requirements of NIAA and bring Connecticut into full compliance. The bill creates the required program by state law, including procedures and fees. The language of this bill incorporates the recommendations of a working group which includes the Department of Public Safety, The Judicial Department, the Department of Mental Health and Addiction Services, the Office of Policy and Management and Probate Court Administration.

This bill provides an avenue for affected individuals that would require them to demonstrate by clear and convincing evidence that the reason for the prohibitor no longer exists and that allowing them possession of firearms would not pose a threat to the public. This bill provides for a thorough review of the individual's mental health status, balancing public safety with individual rights.

The Probate Court is the best forum because conservatorships are created in that Court, and the Probate Court has the ability to request assistance from DMHAS in a review of the petitioner. "Clear and convincing" is the proper standard of review because it is the standard used in the process of reviewing "at risk" search and seizure warrants. The bill requires notification to all the proper parties: the petitioner, the Commissioner of Public Safety, the Attorney General and the Court that rendered the adjudication or commitment. It also requires that the Court record the testimony given at such hearing, which will meet the requirements of the program for purposes of the federal grant monies.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Danaher III", is written over a large, stylized, handwritten letter "C" that serves as a flourish or part of the signature.

John A. Danaher III  
COMMISSIONER